

EDMUND G. BROWN JR.
Attorney General of the State of California
DANE R. GILLETTE
Chief Assistant Attorney General
JULIE L. GARLAND
Senior Assistant Attorney General
HEATHER BUSHMAN
Supervising Deputy Attorney General
KATHLEEN R. FREY, State Bar No. 249417
Deputy Attorney General
110 West A Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-3034
Fax: (619) 645-2581
Email: Kathleen.Frey@doj.ca.gov

Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

BOBBY SHAWN JANOE,

Petitioner,

v.

JAMES TILTON, Secretary, et al.,

Respondent.

CV 08-0420 JLS (POR)

**NOTICE OF LODGMENT OF
EXHIBITS IN SUPPORT OF
ANSWER TO PETITION FOR
WRIT OF HABEAS CORPUS**

Judge: The Honorable Louisa S.
Porter

PLEASE TAKE NOTICE that Respondent hereby lodges the following documents with
the Court in support of the Answer to Petition for Writ of Habeas Corpus, and the accompanying
Memorandum of Points and Authorities filed in Support of the Motion:

1. Abstract of Judgment - Orange County Case No. C-90898
2. Probation Report, Case No. C-90898
3. Chronological History, Inmate No. J-25333
4. Rules Violation Report - Log. No. 07-06-A-005 (8 pages)
5. Serious Rules Violation Report - Log. No. 07-06-A-005 (12 pages)
6. Director's Level Appeal Decision - dated March 14, 2007

- 1 7. Superior Court Petition - Case No. EHC-00868
- 2 8. Superior Court Order Denying Petition for Writ of Habeas Corpus - Case No. EHC-00868
- 3 9. California Court of Appeal Petition - Case No. D051373
- 4 10. Order of California Court of Appeal - Case No. D051373
- 5 11. California Supreme Court Petition - Case No. S159392
- 6 12. Order of California Supreme Court - Case No. S159392

7 Dated: July 11, 2008

8 Respectfully submitted,

9 EDMUND G. BROWN JR.
Attorney General of the State of California

10 DANE R. GILLETTE
Chief Assistant Attorney General

11 JULIE L. GARLAND
Senior Assistant Attorney General

12 HEATHER BUSHMAN
Supervising Deputy Attorney General

13
14 

15 KATHLEEN R. FREY
16 Deputy Attorney General
17 Attorneys for Respondent

18 70128305.wpd
19 SD2008600425

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Janoe v. Scribner**

No.: **CV 08-0420 JLS (POR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266.

On July 11, 2008, I served the attached **NOTICE OF LODGMENT OF EXHIBITS IN SUPPORT OF ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Diego, California, addressed as follows:

Bobby Shawn Janoe
J-25333
California Substance Abuse Treatment
Facility & State Prison
CSATF/SP C-1-112
P.O. Box 5244
Corcoran, CA 93212

In Pro Per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 11, 2008, at San Diego, California.

D. Daswani

Declarant

Signature

70130014.wpd

LODGMENT 1

LODGMENT 2

DISTRICT ATTORNEY

CONFIDENTIAL

Sec. 11142 P.C., the furnishing of this report, or information contained within, to an unauthorized person is a misdemeanor.

ORANGE COUNTY PROBATION DEPARTMENT
PRESENTENCE REPORT

SUPERIOR COURT DEPT. 83
2/18/94 9:00 a.m.

Defendant: JANOE, Bobby Shawn

Court #: 90898

AKA: none

Probation #: A-222175

Address: 9732 W. Guinida Ln, Anaheim, CA

Telephone: 714/520-5804

Present Whereabouts: OCJ #1362600

DPO: Howard E. Brooks/vs

Attorney: Douglas Otto

COURT STATUS

Present Offense: 187(a) PC (Murder), a felony

Date of Offense: 12/30/91 Date of Arrest: 1/2/92 Arresting Agency: Westminster PD

Comp. Filed: 4/14/92 Guilty by: jury trial Date: 1/12/94 Days Custody: 778

Codefendants: none

DESCRIPTION

Age: 35	DOB: 11/1/58	POB: Calif
Sex: male	Ethnicity: Cauc	Arrival in CA: birth
Height: 6-1	Weight: 180	Hair: brn Eyes: brn
Complexion: med	Identifying Marks: tattoos; scars, lft arm, neck, face, nose	
DMV: N6001059	Expires: 11/1/95	Social Security: 573-11-1185
FBI: 369957T4	CII: A09974141	OCSO:

PRIOR PROBATION GRANTS

Year: unk County: San Bernardino Term: unk

PRIOR PAROLE GRANTS

Year: 1986 State: U.S. Term: 4 yrs

EMPLOYMENT HISTORY

Last or Present Employer: Albertson's Markets

Date Began: 10/91 Date Term: 1/2/92 Reason: in custody

Type of Work: diesel mechanic Work Phone: Salary: \$17/hr

Previous Employment

From	To	Employer	Type Work	Salary	Reason Terminated
1988	1991	L.A. Freightliner	diesel mech	\$17/hr	new job
1986	1988	self-employed	"		
1976	1980	various comp's	mechanic		

JANOE, Bobby Shawn

Page 2

C-90898 A-222175

MARITAL HISTORY

<u>Current Spouse</u>	<u>Home Address</u>	<u>DOB</u>	<u>Date/Place Marriage</u>	<u>Status</u>
none				

Occupation: Employment Address: Phone:

<u>Children</u>	<u>Address</u>	<u>DOB</u>	<u>Sex</u>	<u>Other Parent</u>
Misty Janoe	unk	11/11/76	F	Patricia Schoenthanl

<u>Previous Spouse</u>	<u>Address</u>	<u>Date Married</u>	<u>Date Terminated</u>
Patricia Schoenthanl	unk	4/77	1978
Cheryl (Janoe) Lazero	Albuquerque, N. Mex	1986	1989
Joy Lynn Janoe	deceased	10/91	12/91

FAMILY DATA

Father: Bobby S. Janoe Age: DOB: POB:

Died: 1987 Ethnicity: Religion:

Address: Telephone:

Occupation: Marriage Date: Status:

Mother: Marilyn Janoe Age: DOB: POB:

Died: Ethnicity: Religion:

Address: 444 E. Wilson, Rialto, Ca Telephone: 909/875-1777

Occupation: secretary

Other Marriages: Father		<u>Marriage Status</u>	<u>Date Terminated</u>
<u>Name</u>	<u>Dates</u>		

Other Marriages: Mother		<u>Marriage Status</u>	<u>Date Terminated</u>
<u>Name</u>	<u>Dates</u>		

Brothers and Sisters

<u>Name</u>	<u>Age</u>	<u>Address</u>	<u>Phone</u>	<u>Occupation</u>
1/3 Danny (older)	40	unk, San Bernardino		
1/3 Patrick "	38	military; Germany		
1/3 Erin "	37	Fillmore		
Scott (twin)	35	Tucson, Ariz		
Brett Janoe	32	unk		
Lisa Janoe	24	San Bernardino		

Former Residences

<u>Address</u>	<u>From</u>	<u>To</u>

JANOE, Bobby Shawn

Page 5

C-90898 A-222175

EDUCATIONAL BACKGROUND

Highest Grade Completed: 11th Where: Eisenhower H.S. 1976

Degrees Held: G.E.D. 1992

MILITARY RECORD

Branch: none

Service Number:

Dates of Service:

Job Class:

Highest Rank Held:

Type of Discharge:

Duty Assignments:

Honors and Benefits:

PERSONAL INFORMATION

Health: good

Health Problems: none

Organizations: Religion: A.A.; N.A.; Episcopal Church, Blessed Sacrament, Placentia

Hobbies and Interests: motorcycles

Habits

Tobacco: no

Liquor: no; sobriety since 1987

Drugs: marijuana; from high school, 1987

Vehicle License No.:

Make/Model: Dodge truck

Color: gray

Year: 1969

Firearms Owned/Possessed: none

Additional Data: none

COURT STATUS

On April 14, 1992, an Information was filed in the Orange County Superior Court alleging the defendant violated:

Count 1: Section 187(a) PC (Murder), a felony.

It was further alleged that the murder was committed by said defendant and that the defendant intentionally killed the victim while lying in wait, within the meaning of Penal Code Section 190.2(a)(15).

It was further alleged that said defendant was on or about October 19, 1981, in the U.S. District Court of the District of Kansas, convicted of the crime of robbery of a savings association, a serious felony within the meaning of Penal Code Sections 667(s) & 1192.7. 0004

JANOE, Bobby Shawn

Page 4

C-90898 A-222175

1 It was further alleged that said defendant was on or about
2 July 12, 1982, in the U.S. District Court of the District of Colorado,
3 convicted of the crime of robbery of a savings and loan association, a
4 serious felony within the meaning of Penal Code Sections 667(a) &
5 1192.7.

6 On January 12, 1994, as a result of a jury trial, the
7 defendant was found guilty of Section 187 of the Penal Code in the First
8 Degree, a felony. The further allegation of murder while in lying wait
9 was also found to be true. The matter was then continued to this date
10 for a probation and sentence report.

11 CIRCUMSTANCES OF THE OFFENSE

12 In that the matter has been heard in a jury trial, the Court
13 is familiar with the circumstances of the offense. Briefly stated,
14 records of the Westminster Police Department (DR #91-14750), show that
15 the defendant murdered his wife, Joy Lynn Janoe, at their residence in
16 the city of Anaheim on December 30, 1991.

17 On the above date at approximately 1:30 to 3:30 a.m., the
18 defendant hit the victim with an instrument which inflicted blunt force
19 trauma to her head, causing death within a period of minutes. The
20 incident occurred in the couples' bedroom, while the victim was laying
21 on the bed. The victim's body was found in an alley behind a row of
22 businesses, approximately five miles away in the city of Westminster.
23 The victim's car had been used to transport her body to that location,
24 and the vehicle was later found abandoned more than a mile from the
25 residence.

26 After extensive investigation, the defendant was taken into
27 custody on January 2, 1992. Through numerous interviews, the defendant
28 denied he killed the victim.

JANOE, Bobby Shawn

Page 5

C-90898 A-222175

VICTIM'S STATEMENT

Contacts with the family of the deceased have produced the following written responses, copies of which are included for the Court's reference.

STATEMENT OF VICTIM'S PARENTS, Gordan & Beverly Cantonwine

In a letter dated February 4, 1994, the victim's parent's stated,

"To lose a child is a tragedy, to have your child murdered is unacceptable. A part of your life is destroyed that you can never forget. The pain never goes away. We will never know why this tragedy happened. We do know that anyone so full of hate and disregard for life, that he would take another's life, is not fit to live among the loving and caring people of our society. There are two life sentences as a result of this crime. My family, my wife, my children, and my grandchildren, have been sentenced to a life of pain and anger and loss. And a jury has given a sentence of life behind bars, away from society, for the rest of Mr. Janoe's sick, ugly, monstrous life."

STATEMENT OF VICTIM'S SISTER, Christine Carter

In a letter dated February 2, 1994, Mrs. Carter stated,

"There is nothing in my life's experience that can even remotely compare to what my sister's murder did to me. I live in fear. Bob hates me because in his sick mind he thinks that if I would have shut my mouth, the police would never have got him. The question that goes around in my mind constantly is, why did he do that to her, how could he beat her face in while she laid there sleeping, who could do that? Please do not let him out. He is evil."

STATEMENT OF VICTIM'S SISTER, Linda Henry

In a letter dated February 2, 1994, Mrs. Henry wrote,

"The nightmare of December 30, 1991 will continue to haunt me as long as I live. There is not a day that passes that I do not grieve for my sister. Unfortunately, my lasting pictures of her are her mangled face and her lying dead in an alley way in the dead of winter. Two years later, I still have nightmares and dream about Joy at least five nights a week."

JANOE, Bobby Shawn

Page

C-90898 A-222175

1 "As for Bobby Janoe, quite simply I feel that the
 2 son-of-a-bitch should die in the gas chamber. I
 3 would be honored to drop the pellets. There is some
 4 relief in the fact that he will spend his remaining
 5 years in prison, and that he will not be able to
 6 destroy other lives. My only hope is that the
 7 judicial system can at least attempt to make this
 8 disgusting piece of human garbage's life as
 9 miserable as he has made ours."

10 STATEMENT OF VICTIM'S SISTER-IN-LAW, Jill Cantonwine

11 In a letter dated February 3, 1994, Mrs. Cantonwine wrote,

12 "The murder of my sister-in-law, Joy, has of course,
 13 had a huge impact on our lives. There is not a day
 14 that goes by that I don't think about Joy; but
 15 sometimes, I'm consumed with fear and pain over her
 16 death. Did she realize what was happening to her?
 17 Was she scared? Did she feel much pain? Was her
 18 death quick or did she suffer for a long time? We
 19 will never know the answers to these questions, and
 20 I know I will worry over these matters for the rest
 21 of my life. I am satisfied with the sentence of
 life in prison without the possibility of parole for
 the monster that murdered Joy, however, I would want
 him to have to live the rest of his life without any
 personal comforts. I want him to sit in that room
 and think about what he did 24 hours a day."

22 STATEMENT OF VICTIM'S SON, Chad Winchester

23 The victim's son was contacted by telephone on February 2,
 24 1994. He stated that life in prison is a good penalty for the
 25 defendant. He was asked to write a letter detailing his feelings
 26 regarding his mother's murder, but nothing was received as of the date
 27 of this dictation.

28 DEFENDANT IN CUSTODY

29 Defendant has been incarcerated in Orange County Jail
 30 since February 2, 1992. During that period of time, he has been noted
 31 for the following:

<u>Offense</u>	<u>Disposition</u>
Refused to obey a directive	No disposition.

JANOE, Bobby Shawn

Page 7

C-90898 A-222175

1	7/12/92	Unauthorized movement	No disposition.
2	7/15/92	Creating a disturbance & F.T.O.D.	Loss of all privileges, 10 days.
3			
4	8/11/92	F.T.O.D.	Loss of comm, visual, & dayroom, 9 days
5	9/16/92	Tampering w/ a security device	No disposition
6			
7	2/24/93	Poss of contraband, observed smoking marijuana cig in cell.	Isolation, 10 days, arrested, crt dispo.
8			
9			
10	12/28/93	Tampering w/ a security device	Counseled.
11			

DEFENDANT'S STATEMENT

The defendant was interviewed at Orange County Jail on February 2, 1993. With regard to the murder conviction, he stated he did not kill his wife. The defendant said he has ideas of who may have done it, but the Court is already aware of them, so he would not elaborate. He is hoping that the truth will come out, and that the real killer will be found.

The defendant feels he has been wrongly judged on his past record, and it was not shown that he had a motive for the murder. He brought up the situation of his first wife's testimony, saying he never touched her or kicked her in the stomach while she was pregnant. He insisted his first wife perjured herself by giving that testimony.

The defendant highlighted his progress since being paroled in 1986 after his Federal Prison term for bank robbery. He said he has made every effort to straighten out his life by being involved in the Alcoholics Anonymous program, furthering his education, and becoming a diesel mechanic. He stated he achieved all of the goals he set for

JANOE, Bobby Shawn

Page 8

C-90898 A-222175

1 himself, successfully finishing his parole in 1990, saving his money,
2 and purchasing a home. The defendant further stated he has not had so
3 much as a traffic ticket since 1986, and he mentioned he tried to
4 provide for the victim by purchasing a life insurance policy on himself,
5 with her as the beneficiary, in case he died.

6 STATEMENT OF REFERENCES AND INTERESTED PARTIES

7 On February 2, 1994, a letter was sent to Officer Selinskie,
8 Westminster Police Department, soliciting any input he cared to share
9 for this report. A letter was also sent to Deputy District Attorney Lou
10 Rosenblum on the same date. As of the date of this dictation, no
11 replies have been received.

12 The defendant submitted the following references in his own
13 behalf; copies of written responses are attached for the Court's
14 consideration.

15 STATEMENT OF DEFENDANT'S ATTORNEY, Douglas Otto

16 Mr. Otto was contacted by telephone on February 2, 1994. He
17 stated the verdict in this case will bother him forever; he felt the
18 evidence was circumstantial and slight. Mr. Otto stressed the
19 defendant's accomplishments since his parole from Federal Prison in
20 1986. He said the defendant set goals and applied himself, becoming a
21 diesel mechanic, getting a good job, and purchasing a house. Mr. Otto
22 is hopeful of filing a motion to reduce the conviction to a lesser
23 crime.

24 STATEMENT OF MARILYN JANOE, Defendant's Mother

25 Mrs. Janoe was contacted by telephone on February 7, 1994.
26 She stated she believes her son to be innocent of the crime, and that a
27 gross injustice has been done. She said her son accomplished so much
28 since his parole in 1986, but he was given no credit for it. She stated

JANOE, Bobby Shawn

Page 5

C-90898 A-222175

1 the defendant had everything to live for and no reason to murder his
2 wife. She said the evidence was weak and a mistrial should have been
3 declared.

4 STATEMENT OF A FRIEND, Betty A. Parker

5 In a letter dated February 3, 1994, Ms. Parker wrote that the
6 defendant "was a kind, gentle person, who was very determined to better
7 himself. I personally feel he is incapable of committing a crime of any
8 nature."

9 STATEMENT OF A FRIEND, Denise Ann Ropp

10 In a letter dated February 2, 1994, Ms. Ropp indicated she has
11 known the defendant approximately eight or nine years. She stated the
12 defendant is her best friend and he has helped her on many occasions.
13 Ms. Ropp described the defendant as kind, gentle, soft-spoken, loving,
14 caring, truthful, sincere, supportive, considerate, and trustworthy.

15 A second letter from Ms. Ropp's mother, Margaret Ropp, was
16 also submitted, which spoke of the defendant's politeness and
17 gentlemanly behavior.

18
19 STATEMENT OF REVEREND DAVID M. BAUMANN, The Defendant's Minister

20 Reverend Baumann's letter of February 3, 1994, refers to the
21 defendant as a person who worked very hard to turn his life around after
22 release from prison. The defendant is characterized as "a man who had
23 the courage to admit to the alcoholic and criminal activity of his
24 earlier years, and desired improvement in his life." Reverend Baumann,
25 after the knowing the defendant for eight years, indicated the defendant
26 has been trustworthy, quiet, slow to complain and faithful.

27 Reverend Baumann believes, "it's highly probable that an
28 innocent man has been convicted; a premeditated murder is unbelievably

JANOE, Bobby Shawn

Page 10

C-90898 A-222175

1 out of character for the man whom I knew to have made such a concerted
2 and successful effort over a period of several years to change his life
3 for the better."

4 STATEMENT OF FRIEND, Jack Milucky

5 In a letter dated February 3, 1994, Mr. Milucky stated he has
6 known the defendant since 1986 through A.A. meetings and was the
7 defendant's sponsor. Mr. Milucky indicated the defendant was helpful to
8 him and their friendship is still ongoing. He described the defendant
9 as gentle, giving to others, honest and hard-working. Mr. Milucky
10 concluded by saying, "I still believe Bobby is innocent and totally
11 incapable of committing the crime he is convicted of."

12 STATEMENT OF U.S. PAROLE OFFICER, Matt Farley

13 The defendant's former parole officer was contacted by
14 telephone on February 2, 1994. He stated the defendant made a very good
15 adjustment after his release from Federal Prison in 1986, and received
16 an early discharge from parole in 1991. Mr. Farley indicated the
17 defendant's attitude improved significantly during his supervision, and
18 he surpassed what was expected of him.

19 PRIOR RECORD (CII - A0974141)

20 A record check with the Interstate Identification Index and
21 the California Bureau of Criminal Identification and Information, the
22 Federal Bureau of Investigation, and Federal District Court Presentence
23 reports dated November 9, 1981 and July 8, 1982, indicate the defendant
24 has the following record of a sustained juvenile petition and adult
25 convictions:

26 JUVENILE RECORD

JANOE, Bobby Shawn

Page 11

C-90898 A-222175

<u>Date</u>	<u>Agency</u>	<u>Offense</u>	<u>Disposition</u>
3/17/74	Rialto PD	Burg & Arson	4/17/74: case #NJ66273, CYA.

Although the defendant did not recall the details of this case, the Federal Presentence Report of 1981 indicates the defendant burglarized an elementary school, taking items valued at over \$500.00. In addition, he set a fire at Rialto Junior High School, causing \$35,000 to \$70,000 worth of damage. The defendant spent 13 months in the California Youth Authority, and was discharged from parole on November 9, 1979.

In a San Bernardino County Probation report dated April 17, 1974, a junior high teacher, Mrs. Diaz, made the following statement, "Bobby is extremely explosive and may probably kill somebody someday." During the defendant's stay with the California Youth Authority, a psychiatric evaluation of March 1975 diagnosed him as being a "passive-aggressive personality with schizoid traits."

ADULT RECORD

<u>Date</u>	<u>Agency</u>	<u>Offense</u>	<u>Disposition</u>
1/1/78	San Bernardino PD	Drunk Driving	1/13/78: case #HTB963208; 2 yrs prob, fine or \$220.

The Federal Presentence Report of July 8, 1982, reflects that the defendant pleaded guilty, but failed to abide by the terms of probation. Various warrants were issued for his arrest, and he finally appeared on April 30, 1980. The defendant was given three days in custody and probation was terminated at that time.

6/22/79	Kansas City PD	Carrying a Concealed Weapon	6/25/79: Kansas City Muni Crt, \$25 fine, 2 days jail.
---------	----------------	-----------------------------	--

According to the aforementioned Federal Presentence Report dated July 8, 1982, the defendant was observed by officers, while on routine patrol, walking down the street with a buckknife in a case on his belt. The defendant subsequently informed his San Bernardino parole officer that he carried the buckknife for protection.

9/7/79	Dallas PD	Carrying a Weapon	1/21/80: 1 day jail, \$250 fine.
--------	-----------	-------------------	----------------------------------

According to the Federal Presentence Report of November 9, 1981, the defendant was arrested for carrying a pistol. The defendant indicated he recalled it was for carrying a buckknife.

8/17/81	Denver PD	Robbery of Saving & Loan	7/12/82: U.S. Dist Crt; 10 yrs Fed Prison.
---------	-----------	--------------------------	--

According to the Federal Presentence Report of July 8, 1982, the defendant came to a teller's window at Columbia Savings and Loan Association with a note which read, "I'm an escape convict, don't make

JANOE, Bobby Shawn

Page 1

C-90898 A-222175

1 me use the gun. Just give me all the money." The defendant then took
2 \$440 from the teller and left the bank.

3 9/4/81 Leavenworth, Robbery of 3/10/82: U.S. Dist Crt,
4 Kansas PD Savings & Loan 10 yrs Fed Prison.
(Aiding &
5 Abetting)

6 According to the Federal Presentence Report of 11/9/81, the
7 defendant waited in his vehicle, while his brother, Scott Janoe, entered
8 the Savings and Loan. Scott went to the teller with a note which said,
9 "I have a gun - put all the money in the envelope, no one will be hurt."
10 As Scott joined the defendant outside the bank with \$809.50 taken from
11 the robbery, police apprehended the two brothers. The defendant was
12 paroled from the Federal Prison at Lompoc, California on August 11,
13 1986.

14 DMV RECORD

15 According to the records of the California Department of Motor
16 Vehicles, the defendant currently holds a Class A commercial driver's
17 license. His driving record shows one conviction in November of 1991
18 for failure to stop. There are no failures to appear or accidents
19 noted.

20 SOCIAL HISTORY

21 The defendant and his twin brother, Scott, were the oldest of
22 four children born to Bobby and Marilyn Janoe. Both parents were
23 married previously, with the defendant's mother having three children
24 from her first marriage. The defendant's early life was apparently a
25 turbulent one; the father was reportedly an alcoholic who was abusive to
26 the defendant's mother and spent many years in custody, leaving the
27 mother with most of the child-rearing responsibilities.

28 The defendant experienced a great deal of difficulty in
school, being suspended on several occasions for such things as defacing
school property, vulgarity, and defiance toward teachers. He was also
noted for fighting, stealing, and other anti-social behavior. The
defendant's grades fluctuated greatly through junior and senior high
school; at times, his attendance and marks were above average, other

JANOE, Bobby Shawn

Page 13

C-90898 A-222175

1 times quite poor. He left Eisenhower High School in the 11th grade and
2 did not graduate.

3 The defendant has had three marriages. The first was to
4 Patricia Jean Knowles in 1976, which ended in divorce in 1980. The
5 defendant's only child, Misty Sue Janoe, was born to this union in 1976.
6 It is worthy to note that when the defendant's first wife was contacted
7 by Westminster Police Officer Proctor on February 12, 1993, she stated
8 the defendant warned her he did not want any children after Misty was
9 born. When the defendant learned she was five months pregnant in March
10 of 1978, Patricia stated the defendant kicked her very hard in the
11 stomach with his boot. Two days later, Patricia went to the hospital
12 for a therapeutic abortion, after she learned the fetus had died as a
13 result of trauma induced hemorrhaging.

14 The defendant's second marriage to Cheryl Janoe Lazero lasted
15 from 1986 to 1989, with no children. The defendant then married the
16 deceased, Joy Lynn Janoe in October of 1991.

17 In addition to the three marriages, the defendant stated to
18 the federal probation officer in 1982 that he had lived with a Brenda
19 Finner in Rialto, California for a period of one and a-half years
20 between 1980 and 1982. The defendant stated the relationship was
21 terminated when Brenda was murdered in February of 1982.

22 The defendant has worked as a cook, laborer, mechanic, driver,
23 and most recently as a diesel mechanic for Albertson's Markets in Brea.
24 He reported he received a certificate in diesel technology from Rancho
25 Santiago College in 1991, and a G.E.D. certificate while in custody in
26 1992.

27 The defendant reported he has not used alcohol or illegal
28 substances since 1987.

JANOE, Bobby Shawn

Page 14

C-90898 A-222175

EVALUATION

Appearing before the Court is a 35-year-old male defendant, who has been convicted of Section 187(a) of the Penal Code with the further allegation of murder while lying in wait found to be true.

CIRCUMSTANCES IN AGGRAVATIONThe Crime

421(a) - 1 The crime involved great violence and bodily harm, resulting in death to the victim, which disclosed a high degree of cruelty, viciousness, or callousness.

421(a) - 2 The defendant used a weapon, probably some type of hand tool, in the commission of the offense.

421(a) - 3 The victim was particularly vulnerable - she was killed while on the bed in the couples' bedroom.

The Defendant

4421(b) - 1 The defendant engaged in violent conduct which indicates a serious danger to society.

421(b) - 2 The defendant's prior convictions as an adult and a sustained petition as a juvenile are of increasing seriousness.

421(b) - 3 The defendant served a prior Federal Prison term from 1982 to 1986.

CIRCUMSTANCES IN MITIGATIONThe Crime

423(a) - None.

The Defendant

423(b) - 6 The defendant's prior performance on Federal

JANOE, Bobby Shawn

Page 1

C-90898 A-222175

Parole was satisfactory. He received an early discharge from parole, after making an adjustment characterized as "surpassing expectations."

PROBATION ELIGIBILITY

413(a) - The defendant is apparently ineligible for probation because he was convicted of Section 187(a) of the Penal Code, and the 190.2(a)(15) allegation was found to be true; therefore, probation is prohibited by Sections 1203(e)(1)(2) PC except in unusual cases where the interest of justice would best be served.

413(c) A perusal of the criteria pertaining to unusual cases reveals that this matter does not appear to be an unusual case.

EVALUATION

This is the case of a defendant who appeared to have made real improvements in his life after his release on parole in 1986. Until the instant offense occurred, the defendant had seemingly been successful in dealing with his substance and alcohol abuse problems, he had gained good employment through training and hard work, and he had been resourceful in saving money to purchase a new home. In addition, the defendant had experienced no violations of law. It is unfortunate these advances have been lost in the wake of this tragic incident.

It is not possible to measure the pain and sorrow the victim's family have experienced as a result of this murder. The overwhelming sense of loss and anger described in their letters demonstrate the impact the event has made upon their lives. Although there is no way to

JANOE, Bobby Shawn

Page 16

C-90898 A-222175

1 redress these grievances, the sentence of life without the possibility
2 of parole will provide some relief.

3 Questions remain regarding the motive for this offense, but it
4 would appear the defendant's background of violent and unconscionable
5 conduct may have been early indications of a personality who could take
6 the life of another person. Why the defendant would act in such an
7 explosive manner after doing so well for a substantial period of time,
8 is a mystery. Nevertheless, it is now important to consider that if a
9 person is capable of this kind of behavior on one occasion, for no
10 apparent reason, then it is possible it could happen again. The
11 defendant is regarded as both ineligible and unsuitable for probation
12 consideration at this time.

13 RECOMMENDATION

14 In view of the foregoing, it is respectfully recommended that
15 probation be denied and sentencing imposed. Further, the defendant be
16 ordered to pay a Restitution Fund fine pursuant to Section 13967(b) of
17 the Government Code, in the amount of \$200.

18 Respectfully submitted,

19 MICHAEL SCHUMACHER
20 Chief Probation Officer

21 *Howard E. Brooks*
22 Howard E. Brooks
23 Deputy Probation Officer
24 569-2102
25
26
27
28

LODGMENT 3

CDC 112 (9-83)

Page

LODGMENT 4

CALIFORNIA

804 TO RECORDS: 7-17-06

DEPARTMENT OF CORRECTIONS

RULES VIOLATION REPORT

INMATE'S NAME JANOE	RELEASE/BOARD DATE LWOP	INST. CSP-CAL	HOUSING NO. A1-150	LOG NO. 07-06-A-005
VIOLATED RULE NO(S). CCR #3012	SPECIFICATION OF STOLEN PROPERTY AND CHECK FRAUD	LOCATION A1-150	DATE 07/05/06	TIME 10:15 HRS.

CIRCUMSTANCES

On Wednesday, July 5, 2006, Security and Investigations Unit concluded its investigation into numerous altered checks received at Calipatria State prison (CAL) for Inmate Janoe (J-25333, A1-150).

On Tuesday, June 13, 2006, at approximately 1000 hours, Security and Investigations (S&I) Officer #5 V. Canada received 2 separate original checks serial #146931907 for the amount of \$5,727.19 and serial #146931908 for the amount of \$5,190.87 from Calipatria State Prison (CAL) Inmate Trust Account Office Personnel. CAL Accounting Office received the checks on May 17, 2006 via United State Postal Services.

The checks were endorsed for payment to J. Robert West MD Inc, P.O. Box 2150, Redlands Ca. 92373-0701 with Inmate Janoe, J25333/A1-150 name and CDCR number typed in bold letters and underlined underneath the original endorsee. National Heritage Insurance Company (NHIC) generated the checks.

RVR continued on CDC-115 Part C

REPORTING EMPLOYEE (Typed Name and Signature) S. CRITTENDON, Correctional Officer	DATE 7/11/06	ASSIGNMENT S&I Officer #7	RDO'S Sun/Mon
REVIEWING SUPERVISOR'S SIGNATURE C. VALDEZ, Correctional Sergeant	DATE 7/12/06	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING N/A	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: B 121/150	DATE 7/12/06	CLASSIFIED BY (Typed Name and Signature) R. Nelson, Jr. Capt. CA7
HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC			

COPIES GIVEN INMATE BEFORE HEARING

<input checked="" type="checkbox"/> CDC 115 115A	BY: (STAFF'S SIGNATURE) x [Signature]	DATE 7/12/06	TIME 1440	TITLE OF SUPPLEMENT CDC 115 Supplement by V. Canada
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER: CAL-CEN-06-07-0244	BY: (STAFF'S SIGNATURE) [Signature]	DATE 8/3/06	TIME 1200	BY: (STAFF'S SIGNATURE) S. Olivarez

HEARING

07-17-06 2000 hrs issued xerox copies of inmate Trust Account statement for inmate Janoe J25333 from 5-1-5 to 6-5.

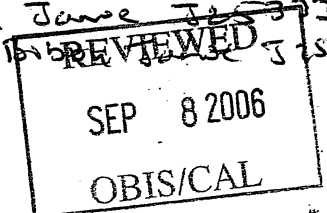
CDC 193 Trust Account withdrawal order to Marilyn Janoe dated 5/25/06.

(1) One Inmate letter.

(6) Six xerox copies of inmate correspondence envelopes to inmate Janoe J25333 from Brett Janoe Box 651 Running Springs CA 92382

(2) two xerox copies of checks pay to the order of Bobby Janoe J25333

(2) two xerox copies of money orders pay to the order of [Signature] J25333



Continued on RVR Part-C

REFERRED TO ☐ CLASSIFICATION ☒ BPT/NAEA

ACTION BY: (TYPED NAME)

J. Sigler, Correctional Lieutenant	SIGNATURE [Signature]	DATE 8/4/06	TIME 1930
REVIEWED BY: (SIGNATURE) R. Nelson, Facility Captain	DATE 8/7/06	CHIEF DISCIPLINARY OFFICER'S SIGNATURE G.J. Janoe, Associate Warden	DATE 8/15/06
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) S. Olivarez	DATE 8/24/06	TIME 2000

CDC 115 (7/88)

0019